

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA**

GREGORY DAVIS,)
v. Plaintiff,) No. 2:09-cv-384-WTL-TAB
WABASH VALLEY CORRECTIONAL)
FACILITY, et al.,)
Defendants.)

Entry Concerning Selected Matters

The court, having considered the above action and the matters which are pending, makes the following rulings:

1. The plaintiff's request to proceed *in forma pauperis* (dkt 2) is **granted**. No assessment of even a partial initial filing fee is feasible at this time, although the plaintiff remains responsible for payment of the entire filing fee.
 2. The complaint is dismissed pursuant to 28 U.S.C. § 1915A(b) because it fails to state a claim upon which relief can be granted. The court reaches this conclusion because the plaintiff's action is brought pursuant to 42 U.S.C. § 1983, but he has not sued a "person" as understood by that statute. Accordingly, the complaint shows on its face that the plaintiff is not entitled to the relief he seeks.
 3. No final judgment shall issue at this time.
 4. The plaintiff shall have **through January 11, 2010**, in which to **file an amended complaint**. Any such document will completely replace the original complaint. If the plaintiff seeks to assert a claim based on the failure of prison officials to protect him from the assault he describes in his complaint, he should consider the following: To prevail on an Eighth Amendment claim based on inadequate conditions, the prisoner must show that (1) the conditions in the prison were objectively "sufficiently serious so that a prison official's act or omission results in the denial of the minimal civilized measure of life's necessities," and (2) prison officials acted with deliberate indifference to those conditions. *Townsend v. Fuchs*, 522 F.3d 765, 773 (7th Cir. 2008) (internal citations and quotation marks omitted).

5. If the plaintiff files an amended complaint as directed above, he shall title it "amended complaint" and he shall place the cause number 2:09-cv-384-WTL-TAB on the front page of the document.

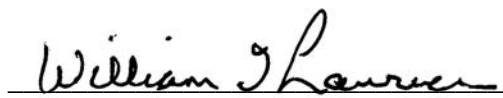
6. In an amended complaint is filed as directed in paragraph 4 of this Entry it will be screened as required by 28 U.S.C. § 1915A(b). If no amended complaint is file as directed in paragraph 4 of this Entry, the action will be dismissed without further notice pursuant to the ruling in paragraph 2 of this Entry.

IT IS SO ORDERED.

Date: 12/08/2009

Distribution:

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Hon. William T. Lawrence, Judge
United States District Court
Southern District of Indiana